
SENATE BILL No. 26

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-11-18; IC 32-31; IC 36-8-17-8.

Synopsis: Smoke detectors in rental properties. Makes it a Class B infraction if a landlord fails to: (1) properly install a smoke detector at the time a tenant moves in; or (2) repair an inoperative smoke detector within seven days of receiving notice of the need for repair. Increases the penalty to a Class A infraction for a repeat violator. Makes the offense a Class D felony if a fire occurs on the rental premises causing bodily injury or loss of life and the injury or loss of life could have been avoided by an operable smoke detector. Makes it a Class D felony for a tenant to knowingly or intentionally fail to replace smoke detector batteries or report a defective or inoperable smoke detector to the landlord under certain circumstances. Permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides in the dwelling.

Effective: July 1, 2008.

Jackman

January 8, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 26

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-11-18-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this
3 chapter:
4 **"Bodily injury" has the meaning set forth in IC 35-41-1-4.**
5 "Dwelling" means a residence with at least one (1) dwelling unit as
6 set forth in IC 22-12-1-4(a)(1)(B) and IC 22-12-1-5(a)(1).
7 "Hotels and motels" means buildings or structures kept, maintained,
8 used, advertised, or held out to the public as inns or places where
9 sleeping accommodations are furnished for hire for transient guests.
10 **"Landlord" has the meaning set forth in IC 32-31-3-3.**
11 "Owner" means a person having control or custody of any building
12 covered by this chapter.
13 "Person" means an individual, corporation, partnership, association,
14 or other legal entity.
15 **"Rental premises" has the meaning set forth in IC 32-31-7-3.**
16 **"Rental unit" has the meaning set forth in IC 32-31-3-8.**
17 "Smoke detector" means a device which senses visible or invisible



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particles of combustion and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association.

"Seasonally occupied dwellings" means hotels and motels open to the public for occupancy by guests only during any period of time between April 15 and October 15 each year.

"Single level dwellings" means all single level (no more than one (1) level above ground) hotels and motels that have no interior corridors, and whose individual rooms have exterior exits.

"Tenant" has the meaning set forth in IC 32-31-3-10.

SECTION 2. IC 22-11-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) An owner of a hotel or motel who violates this chapter commits a Class A infraction, except as provided by subsection (b).

(b) An owner of a hotel or motel commits a Class D felony if:

- (1) the owner knowingly or intentionally violates section 3 of this chapter; and
- (2) bodily injury (as defined in IC 35-41-1) or loss of life occurs as a result of a fire in the building.

(c) **Except as provided in section 5.5 of this chapter**, a person who violates section 3.5 of this chapter commits a Class D infraction.

SECTION 3. IC 22-11-18-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) A landlord who violates section 3.5 of this chapter:**

- (1) **at the time the landlord delivers a rental unit to a tenant;**
- or**
- (2) **by failing to repair or replace a defective or an inoperable smoke detector not later than seven (7) days after receiving written notice by certified mail, return receipt requested, of the need to repair or replace the defective or inoperable smoke detector under section 3.5(e)(2) of this chapter;**

commits a Class B infraction. However, the offense is a Class A infraction if the landlord has a prior violation or conviction for an offense under this section.

(b) A landlord who knowingly or intentionally violates section 3.5 of this chapter:

- (1) **at the time the landlord delivers a rental unit to a tenant;**
- or**
- (2) **by failing to repair or replace a defective or an inoperable smoke detector not later than seven (7) days after receiving written notice by certified mail, return receipt requested, of**

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the need to repair or replace the defective or inoperable smoke detector under section 3.5(e)(2) of this chapter; commits smoke detector malfeasance, a Class D felony, if bodily injury or loss of life occurs as the result of a fire in the rental premises and an operable smoke detector could have prevented the injury or loss of life.

(c) A tenant who knowingly or intentionally fails to:

(1) replace the batteries in a battery operated smoke detector installed in the tenant's rental unit; or

(2) promptly notify the landlord that a smoke detector installed in the rental unit is defective or inoperable and requires repair or replacement;

commits smoke detector malfeasance, a Class D felony, if bodily injury or loss of life occurs as the result of a fire in the rental premises and an operable smoke detector could have prevented the injury or loss of life.

SECTION 4. IC 32-31-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. At the time a landlord delivers a rental unit to a tenant, the landlord shall require the tenant to acknowledge in writing that the rental unit is equipped with a functional smoke detector.

SECTION 5. IC 32-31-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A tenant shall do the following:

(1) Comply with all obligations imposed primarily on a tenant by applicable provisions of health and housing codes.

(2) Keep the areas of the rental premises occupied or used by the tenant reasonably clean.

(3) Use the following in a reasonable manner:

(A) Electrical systems.

(B) Plumbing.

(C) Sanitary systems.

(D) Heating, ventilating, and air conditioning systems.

(E) Elevators, if provided.

(F) Facilities and appliances of the rental premises.

(4) Refrain from defacing, damaging, destroying, impairing, or removing any part of the rental premises.

(5) Comply with all reasonable rules and regulations in existence at the time a rental agreement is entered into. A tenant shall also comply with amended rules and regulations as provided in the rental agreement.

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1 **(6) Ensure that each smoke detector installed in the tenant's**
 2 **rental unit remains functional and is not disabled.**

3 This section may not be construed to limit a landlord's obligations
 4 under this chapter or IC 32-31-8.

5 SECTION 6. IC 36-8-17-8, AS AMENDED BY P.L.1-2006,
 6 SECTION 579, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A fire department serving an
 8 area that does not include a city may engage in an inspection program
 9 to promote compliance with fire safety laws. **Upon the request of an**
 10 **owner or a primary lessee who resides in a private dwelling, the**
 11 **fire department may inspect the interior of the private dwelling to**
 12 **determine compliance with IC 22-11-18-3.5.** The fire department
 13 shall maintain a written report for each inspection. These reports shall
 14 be made available to the division upon request.

15 (b) The fire department serving an area that includes a city shall
 16 inspect every place and public way within the jurisdiction of the city,
 17 except the interiors of private dwellings, for compliance with the fire
 18 safety laws. **Upon the request of an owner or a primary lessee who**
 19 **resides in a private dwelling, the fire department may inspect the**
 20 **interior of the private dwelling to determine compliance with**
 21 **IC 22-11-18-3.5.** Except as otherwise provided in the rules adopted by
 22 the commission, the fire chief of the fire department shall specify the
 23 schedule under which places and public ways are inspected and may
 24 exclude a class of places or public ways from inspection under this
 25 section, if the fire chief determines that the public interest will be
 26 served without inspection. The fire department shall maintain a written
 27 report for each inspection. The fire department shall submit monthly
 28 reports to the division, on forms prescribed by the division, containing
 29 the following information:

- 30 (1) The total number of inspections made.
 31 (2) The total number of defects found, classified as required by
 32 the office.
 33 (3) The total number of orders issued for correction of each class
 34 of defect.
 35 (4) The total number of orders complied with.

36 (c) A volunteer fire department may carry out inspections under this
 37 section only through an individual who is certified under
 38 IC 22-14-2-6(c).

39 SECTION 7. [EFFECTIVE JULY 1, 2008] **IC 22-11-18-5.5(b) and**
 40 **IC 22-11-18-5.5(c), both as added by this act, apply only to crimes**
 41 **committed after June 30, 2008.**

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